

Becknell in the year 1836, approved February 11th, 1852, was read and ordered to be engrossed.

On motion of Mr. Russell, the rule was suspended, bill read a third time and passed.

The report of the committee on State Affairs on a bill for the relief of certain counties therein named, offering a substitute therefor, was read and the substitute adopted.

Mr. Taylor of Cass moved to postpone the bill to a day certain—(next Friday week)—lost.

The yeas and nays being taken on the engrossment of the bill, stood thus :

YEAS.—Messrs. Britton, Caldwell, Hyde, McCulloch, Potter, Stockdale, Taylor of Cass, Taylor of Fannin and Throckmorton—9.

NAYS.—Messrs. Burroughs, Fall, Graham, Grimes, Guinn, Lott, Martin, Paschal, Pirkey, Russell, Taylor of Houston, Truitt, Walker and Wren—14.

So the bill was rejected.

Mr. Paschal moved a reconsideration of the vote just taken.

Mr. McCulloch moved to lay that motion on the table, and make it the special order for the first Tuesday in January next; lost by the following vote :

YEAS.—Messrs. Britton, Caldwell, Hyde, McCulloch, Paschal, Potter, Stockdale, Taylor of Fannin and Throckmorton—9.

NAYS.—Messrs. Burroughs, Fall, Graham, Grimes, Guinn, Lott, Martin, Pirkey, Russell, Taylor of Cass, Taylor of Houston, Truitt, Walker and Wren—14.

The motion to reconsider failed to carry.

On motion of Mr. Martin, the Senate adjourned until tomorrow morning at 10 o'clock.

THURSDAY, Dec. 24th, 1857.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The journal of yesterday was read and adopted.

A message was received from the House informing the Senate that the House had passed a bill, originating in that

body, to incorporate the Fire Association of San Antonio, and the following bills originating in the Senate :

A bill for the relief of the heirs of George Brinlee.

A bill for the relief of Mathias Ward.

A bill for the relief of Wm. H. Ray ; and

A bill for the relief of Eli H. Page.

Mr. Taylor, of Houston, Chairman of the committee on Enrolled Bills, reported a bill to amend the charter, and for the relief of the Houston Texas Central Railroad Company—correctly enrolled, properly signed, and on yesterday presented to the Governor.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported :

A bill to amend the 4th section of an act to organize county courts, passed March 16th, 1848.

A bill to authorize John J. Johnson to keep his mill in operation at a point on the Colorado river, opposite block No. 185, in the city of Austin ; and

A bill to amend the 1st section of a joint resolution for the relief of the company of Rangers, commanded by Capt. Wm. Becknell, in the year 1836, approved February 11, 1852—correctly engrossed.

Mr. Taylor, of Fannin, introduced a bill for the relief of the heirs of Sidney O. Pennington; read first and second times and referred to the committee on Public Debt.

Mr. Taylor, of Cass, introduced a bill supplemental to an act to incorporate Colorado College ; read first time.

On motion of Mr. Taylor, of Cass, the rule was suspended, bill read a second time and ordered to be engrossed.

Rule further suspended, bill read a third time and passed by the following vote :

YEAS—Messrs. Britton, Caldwell, Graham, Grimes, Guinn, Hyde, Lott, Martin, Paschal, Pirkey, Potter, Russell, Scarborough, Taylor, of Cass, Taylor, of Fannin, Taylor, of Houston, Throckmorton and Truitt—18.

NAYS—Messrs. Burroughs, Fall, Stockdale and Walker—4.

Mr. Scarborough introduced a bill to authorize and require the Governor to appoint an agent for the Alabama and Cooshattie Indians, and to prescribe and define the powers and duties of such agent ; read first and second times and referred to the committee on Indian Affairs.

Mr. Taylor, of Houston, Chairman of the committee on Enrolled Bills, reported a bill to create the county of Clay,

and a bill to create the county of Montague—correctly enrolled, properly signed, and this day presented to the Governor.

A message was received from the House informing the Senate that the House had passed the following House bills :

A Bill to create the county of Throckmorton.

A Bill to incorporate the West Fork Mill Company ; and

A bill authorizing the Governor to draw and distribute the arms and accoutrements from the United States Government, to which the State of Texas is entitled.

On motion of Mr. Guinn the report of the committee on Claims and Accounts, upon the petition of Wm. Oldham, recommending its rejection, was taken from the table, read and adopted.

Mr. Taylor, of Fannin, moved a reconsideration of the vote taken on yesterday, indefinitely postponing a bill for the relief of Edward Seeligson, as assignee of the heirs of H. R. Eyles, deceased.

Mr. Throckmorton moved to postpone that motion until, and make it the special order of the day for, the 9th day of January next.

On motion of Mr. Throckmorton, a call of the Senate was ordered. Absent, Messrs. Taylor, of Cass, and Taylor, of Fannin.

There being a quorum present, the call was suspended, on motion, and the motion to postpone failed by the following vote :

YEAS—Messrs. Britton, Caldwell, Hyde, Paschal, Potter, Scarborough, Stockdale, Taylor, of Cass, Taylor, of Fannin, Throckmorton and Wigfall—11.

NAYS—Messrs. Burroughs, Fall, Graham, Grimes, Guinn, Lott, Martin, Pirkey, Russell, Taylor, of Houston, Truitt and Walker—12.

The question recurring upon the motion to reconsider, was lost, by the following vote :

YEAS—Messrs. Britton, Caldwell, Hyde, Paschal, Scarborough, Stockdale, Taylor, of Cass, Taylor, of Fannin, Throckmorton and Wigfall—11.

NAYS—Messrs. Burroughs, Fall, Graham, Grimes, Guinn, Lott, Martin, Pirkey, Russell, Taylor, of Houston, Truitt and Walker—12.

Mr. Russell, Chairman of the committee on Engrossed Bills,

reported a bill supplemental to an act to incorporate Colorado College—correctly engrossed.

ORDERS OF THE DAY.

By leave, Mr. Paschal introduced a bill to incorporate the Marcelina Mill Manufacturing and Bridge Company; read first and second times and referred to the committee on the Judiciary.

The resolution proposing to adjourn *sine die* on the 1st day of February next, was read, and on motion of Mr. Gninn made the special order for the 11th day of January, 1858.

A message was received from the House informing the Senate that the House had passed a Senate bill, supplemental to an act to incorporate the Colorado College.

A bill to protect persons whose lands are subject to forfeiture, was read.

On motion of Mr. Walker, the bill was amended by adding to section 2d:

“And not to apply to certificates issued by county courts of Peters’ Colony.”

The bill was then ordered to be engrossed, by the following vote:

YEAS—Messrs. Britton, Caldwell, Graham, Guinn, Lott, Paschal, Pirkey, Potter, Russell, Scarborough, Stockdale, Taylor, of Fannin, Taylor, of Houston, Throckmorton, Truitt, Walker and Wigfall—18.

NAYS—Messrs. Burroughs, Grimes, Martin, and Taylor, of Cass—4.

On motion of Mr. Throckmorton the rule was suspended, bill read a third time and passed.

A House bill to change the name of Taylorsville, was read and passed to a third reading.

On motion of Mr. Walker, the rule was suspended, bill read a third time and passed.

Mr. Wigfall, Chairman of the committee on State Affairs, made the following report:

The committee on State Affairs have considered the petition of many citizens of Smith county, praying relief for D. P. Fowler; also the petition of John S. McClellan. Each of these petitions ask this Legislature to make appropriations to pay for slaves executed by the people without the authority of law. It may be true that the slaves had been guilty of crimes, which would have subjected them to the death penalty

had they been tried by a jury of the country, under the proper forms of law ; but of this the Legislature are not the proper judges, in the opinion of a majority of the committee. There was nothing to prevent a fair trial of these slaves, and no reason why they should not have been tried in the courts of the country, under all the forms of law, and the committee believe that for the State to pay for slaves executed under such circumstances, would be to encourage our citizens to take the law into their own hands, whenever inclination, passion or prejudice may prompt them. The persons who executed these slaves are undoubtedly liable to the owners for their value ; and it would certainly be proper for them to at least try the enforcement of their rights in the courts of the country, before they ask the State for relief. A majority of the committee, therefore, direct me to return the petitions to the Senate, and and recommend that they be rejected.

Messrs. Paschal and Graham made the following minority report :

The undersigned, composing a minority of the committee on State Affairs, to whom was referred the petition of sundry citizens of Smith county, praying relief in behalf of Dr. D. P. Fowler, and also the petition of John S. McClellan, of the county of Bexar, most respectfully beg leave to differ in opinion from the report of a majority of the committee. The relief sought by the petitioners is pay for certain slaves rescued from the custody of the law, and illegally executed by a combination of citizens. The facts appear to be these : About the twenty-second day of July, A. D. 1853, a slave the property of D. P. Fowler, being in the custody of the civil authorities of Smith county, charged with the crime of rape and murder, was rescued by a number of citizens and summarily executed.

About the 14th of July, 1857, two slaves, the property of John McClellan and Benjamin Beale, being in the custody of the civil authorities of Bexar county, charged with rape and burglary, were in a similar manner rescued and summarily executed.

The crimes charged against the slaves were capital, and the proof leaves no doubt that they were perpetrated under circumstances highly aggravated. Had these slaves been brought to trial, little doubt remains that they would have been convicted and executed ; in which event the State would have been bound to pay one half their value. The law requiring

the State to pay the owners half the value of a slave, executed for a capital offence, was predicated upon the policy of inducing owners to surrender their slaves when accused of capital offences to the civil authorities for trial. In the cases before us it appears that the owners and their agents were active in surrendering these slaves to the civil authorities.

We believe the State is not less morally nor legally bound to pay for these slaves than if they had been regularly tried and executed. When they were taken into the custody of the civil authorities, they were without the power and control of their owners. It was by no fault of theirs that these slaves were illegally executed. The State was bound to safely keep and return to the owners these slaves, if not convicted; or in case of their conviction and execution, one-half their value. As these slaves were never executed according to law, the owners might with much propriety demand their full value, as they were destroyed while in the custody of the State, by an act of violence against which the State was bound to guard. But the owners are fully satisfied they would have been convicted and executed had they been brought to trial; the owners are, therefore, content to receive one-half their value. Were the owners permitted to sue the State, upon strictly legal principles, it is believed they would recover the full value of the slaves. We therefore think the State ought to pay one-half their value—all of which is respectfully reported.

On motion of Mr. Paschal the rule was suspended, reports taken up and made the order of the day for the 9th day of January, 1858.

On motion of Mr. Britton, the Senate adjourned until Monday morning at 10 o'clock.

MONDAY, December 28, 1857.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The Journal of Thursday was read and adopted.

Mr. Grimes presented the memorial of L. G. Clapper; referred to the committee on Claims and Accounts.

Mr. Graham presented the memorial of John C. Watrous; referred to the committee on the Judiciary.

Mr. Russell, chairman of the committee on Engrossed Bills,